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MEDIA OWNERSHIP RULES

It is the purpose of this Act, among other things, to maintain control of the United States over all the channels of interstate and foreign radio transmission, and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license.

—Section 301, Communications Act of 1934

The Communications Act of 1934 reestablished the point that the public airwaves were “scarce.” They were considered a limited and precious resource and therefore would be subject to government rules and regulations. As the Supreme Court would state in 1943, “The radio spectrum simply is not large enough to accommodate everybody. There is a fixed natural limitation upon the number of stations that can operate without interfering with one another.”¹ In reality, the airwaves are infinite, but the government has made a limited number of positions available for use.

In the 1930s, the broadcast industry grew steadily, and the FCC had to grapple with the issue of broadcast station ownership. The FCC felt that a diversity of viewpoints on the airwaves served the public interest and was best achieved through diversity in station ownership. Therefore, to prevent individuals or companies from controlling too many broadcast stations in one area or across the country, the FCC eventually instituted ownership rules. These rules limit how many broadcast stations a person can own in a single market or nationwide.

HISTORY OF BROADCAST OWNERSHIP RULES

1940: The Duopoly Rule

This rule stated that no person or company could own more than one broadcast station (AM, FM, TV) in any one market. The rule was meant to prevent one person

¹See *NBC v. U.S.*, 319 U.S. 198 (1943)

from having too much control over the airwaves in a given area. The Duopoly Rule was supposed to promote diversity and ensure that there were numerous “voices” or owners of broadcast stations within communities.

However, the FCC would often allow exceptions to these rules to keep as many stations on the air as possible. The FCC would, many times, permit one person to own an AM-FM combination in a market or to own a radio station and UHF TV station in the same market. For example, the FCC granted exceptions to companies that had already owned two broadcast stations in a market before this rule went into effect. This is called a *grandfather clause*. The FCC would also allow one entity to own multiple stations within a market if that was the only way to keep those stations on the air. Many times, existing stations were the only ones that had the interest or finances to acquire faltering broadcast stations and keep them on the air. The FCC also allowed existing stations to acquire or construct FM and TV stations (especially UHF) in the same market to encourage the growth of broadcast services.

As will be seen later in this chapter, the Duopoly Rule is no longer in effect in many situations.

1943: The Supreme Court Limits Broadcast Network Powers

In 1938, the FCC started doing research for its *Report on Chain Broadcasting* (or broadcast networks). By the end of the year, the FCC had discovered that there were 660 commercial radio stations in the United States, and more than half (341) were affiliated with one of four national networks. NBC actually operated two national networks, the Red and the Blue, for a total of 135 stations. CBS had 102 stations, and the Mutual Broadcasting System operated 74. Another 30 stations had “dual affiliations” with two of these networks.

The FCC found that the affiliates of these four networks made up 97% of the total nighttime broadcasting power of all the stations in America. (NBC and CBS controlled roughly 85%. Mutual owned a lot of low-power stations and was considered a very weak network in comparison.) The FCC was particularly disturbed by how much power the networks had over the programming on affiliate stations. For example, networks required affiliates to air all network programs and prohibited affiliates from airing another network’s programs. The FCC felt that such network rules limited the ability of affiliate stations to air programming that served the interests of their local audiences.

In 1941, the FCC released its *Report on Chain Broadcasting*.² The report showed that CBS and NBC owned 18 stations in cities such as New York, Chicago, and Washington, and these stations were “the most powerful and desirable in the country, and were permanently inaccessible to competing networks.” The FCC said this concentration of ownership “had a discouraging effect upon the creation and growth of new networks.” Because of this, the FCC mandated an overhaul in how networks dealt with their affiliates: Networks could no longer prohibit an affiliate from airing programs from another network; network-affiliate contracts would now last for 2 years instead of 5 years; affiliates would now have the right to reject network programs for pretty much any reason; a

²Commission Order No. 37, Docket No. 5060, May 1941

network could not own another network; and networks could no longer set advertising rates for local affiliates.

FAQ

Weren't such rules a violation of the rights of networks?

NBC and CBS thought so, and they took the FCC to court over the new rules, saying that the commission was violating the First Amendment rights of the networks and that it did not have the authority to enforce such rules.

However, in 1943, in *NBC v. U.S.*,³ the Supreme Court said the FCC did have such power: "The facilities of radio are limited and therefore precious; they cannot be left to wasteful use without detriment to the public interest." Therefore, the court said, the FCC had the right to limit the power of radio networks to "encourage the larger and more effective use of radio in the public interest."

As a result of this ruling, NBC was forced to sell the Blue network, which later became ABC (remember, the new FCC rules said a network could not own another network), and all the networks were forced to rework rules and contracts with their affiliates.

FAQ

Did this ruling give the FCC a lot more power to regulate networks?

No. It is important to note that the FCC was not given the authority to regulate the networks directly. The Supreme Court simply said the networks were not allowed to interfere with the local operations of their affiliates. The FCC had argued that it had a right to ensure *local* control of broadcast stations, and the court agreed with that argument. For example, the FCC had the right to deny a license renewal to a network-affiliated station if the network had too much control over the station's programming or if the network engaged in activities that prevented the affiliate from serving the public interest.

In 1946, the FCC began enforcing the Dual TV Network Ownership Prohibition. Any national TV broadcast network was now prohibited from owning another national TV broadcast network.

In 1948, the FCC imposed a "freeze" on new applications for TV licenses because there were more applications than there were channel spaces available. This lasted for 4 years and is known as the "Freeze of 1948-1952." During those 4 years, the number of TV sets in homes rose from 250,000 to more than 17 million. The freeze had no impact on network ownership rules but is mentioned in this discussion to show how rapidly the broadcast industry was growing at this time.

³319 U.S. 190 (1943)

From 1970 to 1995, networks' powers were limited further with the Financial Interest and Syndication Rule ("fin-syn"). The rule prohibited the major TV networks from having too much influence and financial interest in their own programming. Fin-syn placed strict limits on the networks owning, producing and syndicating their own shows. *Syndication* is the sale and distribution of a television series directly to individual TV stations instead of through a TV network. The basic reason for the fin-syn rule was to prevent the networks from gaining too much power and to allow smaller production companies to make a profit in Hollywood.

By the 1990s, cable TV was a much more powerful force, and many non-network production companies had become very successful. Also, the networks were losing audience shares. Lawmakers no longer saw a need to restrict the networks from profiting from their own shows, and the rule was officially eliminated in 1995.

Broadcast Station Ownership Limits: 7-7-7, 12-12-12, and Beyond

The FCC felt the public interest was best served by not having one person or company owning too many stations across the country. Therefore, the commission placed limits on how many broadcast stations could be owned by one entity. Until 1944, the FCC had allowed a party to own up to three TV stations nationwide. The commission increased that number to five in 1944.

In 1953, the FCC established the 7-7-7 Rule or the "Rule of Sevens." It stated that one party could not own more than seven AM, seven FM, and seven TV stations nationwide. (At least two of the TV stations had to be UHF. VHF is channels 2 through 13. UHF is channels 14 through 69.) Also, a single owner could not have stations in each medium reaching more than 25% of the national audience. Soon after, the FCC denied Storer Broadcasting Company a license for a sixth VHF station, and the company took the FCC to court. In 1956, the Supreme Court ruled that the FCC had the right to enforce ownership limits.⁴

FAQ

Why 7-7-7? Why 25%?

Critics of FCC ownership rules have frequently accused commissioners of picking such numbers "out of thin air." Critics ask, "Why 7-7-7 and not 8-8-8? Why 25% and not 20% or 30%?" The FCC sometimes lays out no clear justification for enacting such limits. As will be seen later in this chapter, when such numbers are challenged in court, judges often demand that the FCC provide concrete research and rationale to justify such limits.

In 1964, the FCC enacted the TV Duopoly Rule, which prohibited any entity from owning two or more TV stations in the same market. The FCC strictly enforced this rule until 1999. (In 2003, the FCC attempted to replace this rule with more liberal ownership limits, which will be discussed later in this chapter.)

⁴*U.S. v. Storer Broadcasting*, 351 U.S. 192 (1956)

In 1985, the 7-7-7 rule was dropped and became the 12-12-12 rule, or “Rule of Twelves.” Now one party could own up to 12 AM, 12 FM, and 12 TV stations nationwide. The 25% rule for each medium still applied. These rules were strictly enforced. In 1985, Capital Cities and ABC merged. The merger meant ABC/Capital Cities had radio and TV stations reaching more than 28% of the U.S. population. The newly formed company had to sell off some of its stations to get below 25%. The FCC also noticed that very few minorities owned radio and TV stations. To increase diversity in ownership, the FCC in 1985 instituted a 14-14-14 minority rule to allow minorities to own up to 14 each of AM, FM, and TV stations. These stations would be allowed to reach up to 30% of the national audience.

In 1992, the 12-12-12 rule became the 18-18-12 rule. Now, a broadcast owner could have up to 18 AM, 18 FM, and 12 TV stations. Only 2 years later, in 1994, ownership limits were raised to 20-20-12.

FAQ

Why did the FCC raise ownership limits at these times?

The FCC was acknowledging increased competition in the electronic media and that the radio industry was struggling financially. The commission felt that relaxing ownership limits would allow bigger companies to buy smaller, struggling radio operations and keep those stations on the air. The FCC also said that the limits needed to be increased as the number of radio stations continued to increase.

CROSS-OWNERSHIP RULES

These rules were designed to prevent one electronic medium from having too much influence in other electronic media. Once again, it is the FCC’s public interest standard that is the impetus for such rules, with the commission arguing that diversity in ownership is better than consolidation.

From 1970 to 2002, the FCC enforced the Cable/Broadcast Cross-Ownership (CBCO) Rule, which prohibited a cable system from owning broadcast TV stations in its own market. In 1970, the FCC dissolved all existing cable-broadcast cross-ownerships. However, an appeals court, in *Fox v. FCC*,⁵ in 2002, struck down CBCO. The FCC had kept the CBCO Rule to avoid consolidation of media ownership and to promote diversity of ownership of cable systems and broadcast stations. The court, though, said the FCC had not considered “the increase in the number of competing television stations since it had promulgated the Rule in 1970.” The court acknowledged that there might be some damage to diversity of ownership, “but we hardly think it could be substantial.”

In 1970, the FCC also passed the Radio-TV Cross-Ownership Rule. This rule prohibited most companies from owning a radio station and a TV station in the same market, but the

⁵293 F.3d 537 (D.C. Cir. 2002)

FCC did not strictly enforce this rule. The commission allowed most existing radio-TV cross-ownerships to continue but prohibited any new combinations.

In 1999, the FCC issued new guidelines for radio-TV cross-ownership that allowed one party to own a television station and any of the following radio station combinations in the same market. Note how the FCC is concerned about the number of *independent voices* in a market:

- One AM or FM radio station, regardless of the number of independent voices in the market
- Up to four radio stations (any combination of AM or FM, as long as they are permitted under the local radio ownership rules) in any market where at least 10 independent voices would remain after the merger
- Up to six radio stations (any combination of AM or FM stations, as long as they are permitted under the local radio ownership rules) in any market where at least 20 independent voices would remain after the merger

A TV station could choose any of these four options and still own or purchase a second TV station if permitted by the updated TV Duopoly Rule (see page 113). In those markets where the revised rules allowed parties to own eight outlets in the form of two TV stations and six radio stations, a single party could also choose to own one TV station and seven radio stations. The FCC would allow waivers to these limits if one station was a failed station.

Independent Voices

The FCC said the term *independent voices* (in relation to the Radio-TV Cross-Ownership Rule) included radio stations, TV stations, newspapers, and cable systems that met the following criteria.

1. *All independently owned, full-power operational commercial and noncommercial television stations* licensed to a community in the DMA in which the TV station was located
2. *All independently owned operational commercial and noncommercial radio stations* licensed to, or with a reportable share in, the radio metro market where the TV station involved was located
3. *Daily newspapers* that were published in the DMA with a circulation exceeding 5% of the population in the DMA
4. *Wired cable systems*, provided cable service was generally available in the DMA

In 1975, the FCC announced the Newspaper-Broadcast Cross-Ownership Rule, which prohibited one party from owning both a broadcast station and a newspaper in the same market. Cable systems were exempt from this rule.

FAQ

Why was the FCC getting involved in newspaper ownership regulation?

The FCC may only regulate newspaper ownership when it involves broadcast ownership as well. The FCC felt that concentration of ownership of print and broadcast outlets would give a single entity too much control over the dissemination of information in a community.

In fact, the commission ordered the breakup of more than a dozen newspaper-broadcast cross-ownerships in smaller communities. These were situations in which the only broadcast station in town also owned the only newspaper in town or vice versa.

However, the FCC allowed all other existing newspaper-broadcast cross-ownerships to continue, but it would not allow any new mergers. Various members of the broadcast and print media filed lawsuits to stop the FCC from enforcing the rule. Some complained that the rules were too strict and others said the rules were not strict enough.

In 1978, in *FCC v. National Citizens Committee for Broadcasting*,⁶ the Supreme Court upheld the newspaper-broadcast cross-ownership rule. The justices ruled unanimously that the FCC had given sufficient justification for the rule and had the right to enforce it. The FCC did enforce it in the next 15 years, rarely allowing such mergers. Then, in the early 1990s, with the growing number of media voices, especially in larger markets, lawmakers and the FCC relaxed these limits a bit. In 2003, as will soon be discussed, the FCC attempted to replace the rule with a more liberal rule.

In 1993, Congress passed a law allowing the FCC to permit radio-newspaper mergers in the top 25 markets, but there had to be at least 30 other independent radio and TV voices in that market after the merger.

TV-Newspaper Cross-Ownership Liberalized

The 1993 law still discouraged TV stations from owning newspapers in any market. In 1998, though, the FCC granted a waiver to the Tribune Company so it could own both a newspaper and a TV station in the Miami-Fort Lauderdale market. Then, in its 2000 biennial review of ownership rules, the FCC said it would continue to consider waivers for TV-newspaper mergers in larger markets with numerous independent voices.

FAQ

Are there any ownership rules involving satellite TV providers?

Satellite TV–Cable Cross-Ownership

The FCC has considered some restrictions on a cable system owning a direct broadcast satellite (DBS) service, such as the Dish Network, but there are no such rules in writing yet. If a cable company attempts to buy a satellite TV provider, then the FCC or the Department of Justice will step in to see if such a merger would violate antitrust laws and damage competition in the cable and satellite TV markets.

In 1998, such a situation arose with satellite TV provider Primestar, which was run by five of the nation's largest cable companies. Primestar had tried to acquire the DBS assets of MCI and News Corporation Limited (News Corp). The Department of Justice filed a civil lawsuit to stop the purchase, saying the merger would have allowed Primestar's owners to protect their existing cable monopolies and would discourage competition in the satellite

⁶436 U.S. 775 (1978)

TV market. Soon after, Primestar abandoned its proposed merger, and the lawsuit was dropped. In January 1999, the five cable companies that owned Primestar sold its 2.2 million subscribers to DirectTV.

That same year, though, FCC chairman William Kennard said he would oppose any regulation prohibiting cross-ownership of cable companies and DBS. In 2001, with Michael Powell as its new chairman, the FCC said it was looking at a possible cable-DBS cross-ownership ban.

THE TELECOMMUNICATIONS ACT OF 1996

This act was the most sweeping change in broadcast regulation since the Communications Act of 1934. Our concern in this chapter is how the act affected ownership regulations. Major changes occurred for all electronic media.

Radio Ownership Limits

The New Rules from the Telecommunications Act of 1996

1. No national limit on radio stations. Owners would no longer have to worry about reaching more than 25% of the national audience. There is now no national limit.
2. The Radio Duopoly Rule was dropped. Persons could now own more than one station in a market, depending on market size. Those limits are laid out in Table 5.1.

The FCC still has the right to reject requests for multiple ownerships of stations, even if the guidelines are met. In 2002, for example, Clear Channel wanted to purchase about half a dozen radio stations in several markets, but the FCC denied those requests, saying the new stations would give Clear Channel too much power in those markets.

FAQ

What impact did these new rules have on the radio industry?

These changes in ownership rules had a major impact. Within a year, there were more than 1000 radio mergers. Remember, under the 1994 rules, no party could own more than 40 radio stations in America. With the new rules, Clear Channel Communications in 2003 owned more than 1250 radio stations nationwide or approximately one of out of every nine stations in the country.

The new ownership rules, obviously, consolidated the industry. In 1996, there were roughly 5100 radio station owners in the country. By 2002, the FCC said the number of owners had dropped to approximately 3800. Whether this is a good thing or a bad thing continues to be a topic of debate.

FAQ

What are the main arguments in favor of these new rules?

Table 5.1 Radio Ownership Limits

<i>Number of Commercial Stations in Market</i>	<i>Maximum Number of Stations</i>	<i>Maximum Number of Same-Service (AM or FM)</i>
45 or more	8	5
30-44	7	4
15-29	6	4
14 or fewer	5 ^a	3

NOTE: These limits are all still in effect.

a. A person or company is not allowed to own more than 50% of radio stations in a market with 14 or fewer commercial stations. In markets with only three stations, an entity may own two stations only if they are an AM-FM combination.

Radio station owners get to operate more like other business owners and compete more fully in a free market—with fewer government restrictions. The new rules also increase diversity in general and the number of different formats on the air. There are more stations, with a greater variety of program formats, than there were before 1996. The FCC reported a 7.1% increase in the number of commercial radio stations on the air between March 1996 and March 2001. One big benefit was for Spanish language stations, which increased from 400 in 1996 to more than 600 in 2003. The new ownership rules made it easier for existing station owners to expand.

Struggling stations survive. Big companies are now allowed to purchase struggling stations in various markets and keep them on the air. Without these new rules, the stations might have gone off the air. The rules are especially helpful to small markets. Under the old duopoly rules, an existing station owner was not allowed to start up a second or third station. Under the new rules, these owners have begun putting more stations on the air and have given listeners more formats to choose from. This is especially noticeable in smaller markets. In some markets, more stations mean more jobs (however, this is not true in most instances, as will be discussed in the next section).

Advertisers have more choices. With more stations, advertisers have more options and are better able to hit their target demographics.

Quality may improve. A station is likely to have a better overall sound because it is being controlled by a national company with higher professional standards. An offshoot of this is “collective contesting.” Big companies buy radio stations in smaller markets, enabling these small stations to offer bigger contests with bigger prizes and thus attract more listeners.

The radio industry is less consolidated than other industries. An NAB fact sheet from 2003 said the top ten radio station owners accounted for 49% of industry revenues. The NAB compared this with figures showing that the top ten cable companies control 89% of the cable industry’s revenues and the top five music labels account for 84% of all album sales.

FAQ

What are the main arguments against the new radio ownership rules?

Detractors say that radio is being transformed from a local medium to one controlled by national corporations. Corporate-owned radio stations are more concerned about profits instead of serving local communities (“profits over public”). Minority ownership suffers. Big company ownership of many radio stations greatly reduces the opportunity for minority ownership of stations. In February 2003, the National Association of Black Owned Broadcasters, Inc., reported to the FCC that minority-owned stations had decreased 14% since 1996.⁷ Part of the reason for this could be found in a 2000 report by the Minority Telecommunications Development Program. It argued that many minority broadcasters own only one station, and that fact makes it “practically impossible to compete with media conglomerates.”⁸

More stations are turning to automation systems to program their stations. The big companies often prefer to have a computer run a station. It is much cheaper than hiring a full-time staff to be on the air 24 hours a day. As a result, critics say the on-air sound is bland and uncreative.

This emphasis on automation means fewer jobs. Stations do not need to hire as many people when a computer can do the job. The Bureau of Labor Statistics reported that from June 2000 to June 2002, radio station jobs decreased by 7000, thus leaving the radio industry with fewer jobs than it had in 1982. Automation also means more stations are “unattended.” Therefore, no one is “live” on the air at the station to alert listeners about breaking news or emergencies.

For example: Did a dangerous chemical spill go unnoticed on local radio stations? On January 18, 2002 at 1:30 a.m. in Minot, ND, a train derailed, and its cargo of deadly anhydrous ammonia fertilizer exploded and burned. City and emergency officials said they tried to contact the local radio stations to help alert the public about the toxic ammonia fumes, but officials claimed no one answered the phones at the stations. All six Minot radio stations were owned by Clear Channel, and all six stations were running on automation at the time of the accident. Officials complained there was no news person or DJ at any of the stations to get on the air and inform the community about the deadly ammonia cloud. According to the Federal Emergency Management Agency, one person died as a result of the spill and 13 others were hospitalized.

Critics of radio deregulation frequently use the Minot incident as an example of how the consolidation of the radio industry is harmful to the public. The incident received widespread attention, including mention in a joint resolution of the Vermont legislature in May 2002. The resolution called for the FCC to avoid relaxing media ownership rules any further, saying incidents like the North Dakota train derailment show that many local radio stations are no longer doing a good job of serving the public interest.⁹

In 2004, though, Clear Channel disputed the Minot accounts. The company said its news station was indeed staffed and that reporters were sent to the scene of the derailment. Clear Channel placed much of the blame on the city, saying that Minot officials had tried to contact the station using old Emergency Broadcast System equipment instead of updated Emergency Alert System (EAS) equipment. Clear Channel said it sent engineers to Minot

⁷National Association of Black Owned Broadcasters, Inc., & Rainbow/Push Coalition, Inc. (2003, February 3). *Matter of 2002 biennial review: Reply comments*. MB Docket No. 02-277.

⁸Rawls, D. (2002, December 12). Minorities and the media: Little ownership and even less control. *AlterNet*. Retrieved July 22, 2003, from <http://www.alternet.org/story.html?StoryID=14751>

⁹Lynn, A. S. (2002, May 15). Vermont takes FCC lead. *Addison County Independent*, p. 4.

and found that the city still had the new EAS equipment in boxes. The company said it helped the city install the EAS equipment and then trained officials on its proper use.

Another argument against the new rules is that stations will have less news. Big companies, to cut costs, have cut back on radio station newscasts and news staffs. The Minot incident is certainly one example of this. Several studies have shown that media consolidation has “led to a serious decline in the quality of local news as distant corporate media executives demand cuts in news budgets to boost profits.”¹⁰ A study released in 2002 by the Project for Excellence in Journalism claimed that radio stations owned by individuals or smaller groups produced higher quality local newscasts than stations owned by large corporations.

Allegations are that music playlists have become narrower, and music is less diverse. Big companies tend to emphasize a heavy rotation of a narrow list of popular songs. Critics say that companies such as Clear Channel “homogenize playlists in a relentless quest for profit.”¹¹ The big companies use the same programming formula at most of their stations, so a lot of radio sounds the same as you travel across the country.

Antitrust issues are surfacing. In 2001, a Denver promotion company called Nobody In Particular Presents (NIPP) filed an antitrust lawsuit against Clear Channel. Clear Channel also is a major player in the concert industry through its Clear Channel Entertainment division. NIPP accused the media giant of using its radio stations and concert division to engage in “monopolistic and predatory practices.” NIPP said these practices included Clear Channel Entertainment preventing other concert promoters from advertising their shows on Clear Channel stations. In April 2004, in *Nobody in Particular Presents, Inc., v. Clear Channel*,¹² a federal district judge ruled that the lawsuit could go to trial. However, the two sides settled out of court in June 2004. The terms were not disclosed, but Clear Channel said the settlement included no admission of wrongdoing on its part.

The number of station owners is declining. As mentioned earlier, station owners decreased from roughly 5100 in 1996 to an estimated 3800 by 2002, a decline of roughly 25%. This means that fewer stations are owned and operated by local people.

FAQ

Why is a decrease in local ownership considered such a bad thing?

Critics argue that local owners have a more sincere and vested interest in their local communities and, as a result, serve those communities better.

In the *Biennial Review of Broadcast Ownership Rules*, released on June 2, 2003, the FCC voted to maintain the current local radio ownership limits. The FCC also concluded that current local radio ownership limits “continue to be necessary in the public interest.” The only major change was how radio markets would now be defined. Such markets are now to be

¹⁰AFL-CIO Executive Council. (2003, February 26). *Media monopolies: A threat to American democracy*. Retrieved June 15, 2004, from <http://www.aflcio.org/aboutaflcio/ecouncil/ec02262003.cfm>

¹¹Sanders, E., & Leeds, J. (2003, January 30). Clear Channel is facing a lot of static inside the capitol. *Los Angeles Times*, p. C1.

¹²311 F. Supp.2d 1048 (D. Co. 2004)

determined by a geographic market approach established by Arbitron, the main company for collecting radio ratings data in America.

Other Major Changes From the Telecomm Act of 1996

Network-Cable Ownership Rule

Congress ordered the FCC to drop the prohibition on networks owning cable systems. However, it stated that network-owned cable systems must operate fairly and not discriminate against non-network affiliate stations. For example, a network cannot try to force a local independent TV station out of business by refusing to carry that station on the cable system.

Telephone-Cable Cross-Ownership Rule

Until 1996, telephone companies were banned from owning cable companies. The 1996 act lifted that ban. Local telephone companies were now free to own and operate cable systems. The local phone companies were also allowed to offer long-distance services and Internet access and to manufacture telephone equipment. At the same time, long-distance providers such as Sprint and AT&T were allowed to offer Internet access as well as local telephone services.

This new rule also allowed cable companies and phone companies to provide video services and programming through telephone lines.

New Network Ownership Rules

In the 1996 act, Congress directed the FCC to prohibit the “Big Four” TV networks (CBS, NBC, ABC, and Fox) from operating a smaller network as well. This also meant that other companies could not have dual ownership of a Big Four network and a smaller network. The Big Four networks were also prohibited from merging with each other. At the same time, companies were permitted to operate more than one TV network as long as it did not include any of the Big Four.

These rules soon created problems in 2000 for Viacom, Inc., when it acquired CBS in a merger deal. Viacom already owned the fledgling UPN network. The rules stated clearly that a company could not own two networks if one was a Big Four network. Viacom argued that it should be allowed to hold on to UPN because the fledgling network would not survive without support from a major company. Viacom also noted that UPN programs attracted large minority audiences, particularly black viewers. In 2001, the FCC agreed with both arguments and updated (or re-established) network ownership rules. A Big Four network is now allowed to merge with an emerging network (including any network that started up after 1996), and Big Four networks are allowed to start up their own, smaller networks. Big Four networks are allowed to purchase cable networks and may even convert the cable network to a broadcast network if they so desire. Smaller networks may also acquire other smaller networks.

The Big Four are still restricted from merging with each other.

Broadcast Ownership Rules and the Biennial Review

The Telecommunications Act of 1996 mandates that the FCC review all of its ownership rules every 2 years to determine if they are still applicable in a changing media environment.

The FCC is allowing more and more concentration of ownership of broadcast stations. The commission has argued that this is no real threat to the diversity of viewpoints available on the airwaves because there are so many other outlets for communication these days—cable, satellite, and the Internet, to name just a few.

TV DUOPOLY RULE UPDATED

In 1999, the FCC announced new rules,¹³ saying it would consider duopolies if (a) the duopoly would result in keeping a “failed” or “failing” station on the air, and there were no other available buyers for that station; (b) it would result in the construction of a previously unbuilt station; or (c) only one of the two stations was among the top four-ranked stations in the market and there were at least eight full-power independent stations (commercial and noncommercial) within the market after the merger.

FAQ

What is a “failed” or “failing” station?

The FCC says a failed station is one that has been off the air for at least 4 months or is involved in involuntary bankruptcy or insolvency proceedings.

The definition for a failing station is a little less specific. This is a station that has had a low audience share in the market and has been “struggling financially” during the past several years.

The FCC said these new TV duopoly rules had several benefits. The rules would lead to increased news and public affairs reporting because joint ownership and operation leads to more efficient use of broadcast resources. The rules could ensure the survival of struggling stations and thus keep more stations on the air. To ensure such benefits, consolidation of ownership would only occur “where competition and diversity will not be unduly diminished.”

Concerns about competition and diversity became the center of attention in 2003 when the FCC announced major changes to TV ownership and cross-ownership rules. Many lawmakers in Congress said the changes were the most controversial in the commission’s history.

THE NEW 2003 TV AND CROSS-MEDIA RULES

In 2003, the FCC attempted to liberalize the TV and cross-media ownership rules even further, but the commission met with fierce resistance from lawmakers, media groups, the public, and the courts.

In the Telecomm Act of 1996, Congress gave the FCC authority to liberalize the 25% national audience reach limit. The FCC decided that entities could own TV stations that

¹³Report No. MM 99-8 MM, Docket No. 91-221 and 87-8

reached up to 35% of the national audience. However, in 2002, in *Fox Television v. FCC*,¹⁴ the DC Court of Appeals ruled that the FCC had not provided good reasons for picking 35% for a limit on TV station ownership. The court called the 35% cap “arbitrary and capricious and contrary to the law.” The court sent the issue back to the FCC for reconsideration.

On June 3, 2003, the FCC responded to the court’s mandate with a new set of rules it said would “withstand future judicial scrutiny.” The FCC voted 3-2 along party lines (3 Republicans, 2 Democrats) and threw out the 35% limit. Details are provided to show how the FCC tried to justify the changes.

1. Proposed 45% National TV Ownership Limit

The FCC said a company could now own TV stations that reached up to a *45% share of U.S. TV households. Share would be determined by counting the number of TV households in each market* in which the company owns a station. Ratings would not matter. The number would therefore be based on every *potential* TV household. The FCC pointed this out to show that a 45% share of TV household would *not* equal a 45% share of TV stations in the United States.

A *50% UHF discount* would apply. Owners would have to count only 50% of their audiences for UHF stations when calculating the 45% limit. The FCC said it did this to promote the growth of UHF stations, which have smaller signal coverage areas than VHF stations. However, once the transition to digital TV is complete, the UHF discount would be eliminated for stations owned by the Big Four networks.

These new rules would not result in huge media consolidation. To prove this, the FCC noted that there were 1340 commercial TV stations in the United States as of March 31, 2003. Of those, the biggest owner, Viacom, owned only 39 (2.9%). Fox owned 37 (2.8%), NBC owned 29 (2.2%), and ABC owned 10 (0.8%).

In announcing the 45% limit, the FCC responded to the court in the *Fox* case and said the previous 35% cap “did not strike the right balance of promoting localism and preserving free over-the-air television.” It said that establishing a cap of 45% would still “protect localism by allowing a body of network affiliates to negotiate collectively with the broadcast networks on network programming decisions.”¹⁵ The commission said that boosting the limit to 45% would encourage networks to keep costly and popular programming, such as sporting events, on “free, over-the-air television.”

2. Local TV Multiple Ownership Limits

From 1964 until 1999, the FCC used the TV Duopoly Rule to effectively ban any TV station from owning another TV station in the same market. In 1999, though, the FCC loosened the rule to allow some companies to own two TV stations in the same market under certain conditions (based on market size and the number of stations within a market).

In June 2003, the FCC loosened the restrictions even further, only banning TV duopolies in the smallest markets.

¹⁴280 F.3d 1027 (D.C. Cir. 2002)

¹⁵Federal Communications Commission. (2003, June 2). FCC sets limits on media concentration (news release). *NEWS*, p. 5.

Proposed Local TV Multiple Ownership Limits

In markets with five or more TV stations, a company may own two stations as long as both stations are not in the top four in the ratings. In markets with 18 or more TV stations, a company may now own three TV stations, as long as only one of the stations is in the top four in the ratings. In markets with 11 or fewer stations, the FCC will institute a waiver process for companies wishing to own two top-four stations. The commission will decide such matters on a case-by-case basis to determine if such dual ownerships would better serve the community than if the stations remained separate.

Both commercial and noncommercial TV stations are counted when deciding the number of stations in a market.

FAQ

Why did the FCC settle on this “top-four rating” idea?

The commission said it chose to base the new rule on a “top-four rating” because each one of the top four stations in most markets usually produces an independent local newscast. As a result, the commission said people would still be able to get news and information from a number of independent voices in each market. The FCC said the ban on top-four mergers would “have the effect of preserving viewpoint diversity in local markets.”

3. Cross-Media Limits Rule

The FCC announced that this new rule would replace the radio-TV cross-ownership rules and the broadcast-newspaper rules.

In markets with three or fewer TV stations, *no* cross-ownership is allowed between TV, radio, and newspapers. A company may get a waiver for this ban if it can show that the TV station does not serve the area served by the radio station or newspaper.

In markets with four to eight TV stations, only *one* of the following combinations is permitted: (a) A daily newspaper, one TV station, and up to half of the radio station limit for that market (e.g., if the radio station limit in a market is eight, the company can own up to four radio stations in this combination); (b) a daily newspaper and up to the limit for radio stations in that market (no ownership of a TV station would be permitted); *or* (c) two TV stations (if permissible under the new local TV multiple ownership limits mentioned earlier) and up to the limit for radio stations in that market (no daily newspaper ownership would be allowed).

For markets with nine or more TV stations, the FCC eliminated the TV-radio cross-ownership ban and the newspaper-broadcast cross-ownership ban.

The Diversity Index

The FCC said it established this three-tier system as part of what it called a Diversity Index. Their concern was for the number of independent media outlets delivering news and information in each market. The FCC said it wanted to ensure that there was

a “diversity of viewpoints” available in local media. The commission explained the rationale behind each tier.

The smallest markets, those with three or fewer TV stations, are “sufficiently limited” in their media outlets. The FCC said any cross-ownership in these markets “would harm viewpoint diversity.” Markets with four to eight TV stations are, obviously, less concentrated. The FCC felt that certain media combinations could occur without harming the diversity of viewpoints. The FCC said that the larger markets, those with nine or more TV stations, have enough media outlets to justify dropping old cross-ownership rules. The commission felt that current ownership limits for radio and TV “were more than sufficient to protect viewpoint diversity.”

FCC chairman Michael Powell said that these new rules simply reflected the changing media landscape. For example, the commission said, “greater participation by newspaper publishers in the television and radio business would improve the quality and quantity of news available to the public.”

4. Dual Network Ownership Prohibition

The FCC announced that it would continue to ban any mergers between the top four national broadcast networks.

5. Defining Radio Markets

The FCC ruled that noncommercial stations should be counted when determining the number of radio stations in a market. The commission also ruled that Arbitron Radio Metro numbers may be used to define, for ownership purposes, where one market starts and another ends.

2003 OWNERSHIP CHANGES HARSHLY CRITICIZED

The sharpest criticism came from the two Democratic commissioners on the FCC, Michael Copps and Jonathan Adelstein. Adelstein was particularly harsh, calling the new rules “the most sweeping and destructive rollback of consumer protection rules in the history of American broadcasting.” He added that “this Order simply makes it easier for existing media giants to gobble up more outlets and fortify their already massive market power.”¹⁶ Copps said he was “deeply saddened” by the “radical deregulation” created by the new rules and warned that the new rules gave “a handful of corporations awesome powers over our news, information, and entertainment.”¹⁷ Other critics joined in, saying these new rules would lead to the “Clear Channelization” of the TV industry.

The day after the new rules were announced, all five FCC commissioners appeared before the Senate Committee on Commerce, Science and Transportation. Most of the committee senators were highly critical of the new rules and sided with the

¹⁶Federal Communications Commission. (2003, June 2). Statement of Jonathan S. Adelstein, dissenting. *NEWS*, p. 1.

¹⁷Federal Communications Commission. (2003, June 2). Statement of Michael J. Copps, dissenting. *NEWS*, p. 1.

two dissenting Democratic commissioners. Commissioner Adelstein told the committee that the debate about changing the ownership rules resulted in a record number of Americans contacting the FCC. He said that 750,000 people had written, called, faxed and e-mailed the FCC and that “99.9% of them oppose further media consolidation.” Adelstein added, “The public interest standard, if not dead, is mortally wounded.”¹⁸ A court would soon agree.

Court Blocks New Ownership Rules

In September 2003, the Third U.S. Circuit Court of Appeals blocked the new ownership rules from taking effect. Media groups that had been planning mergers under the new ownership rules were forced to put their plans on hold. In June 2004, a federal appeals court in Philadelphia sent the new rules back to the FCC, saying the commission had not provided sufficient justification for its numerical ownership limits in radio, TV, and cross-ownership. The court did uphold the FCC’s inclusion of noncommercial stations in market counts, as well as the use of Arbitron Radio Metro for market definition.

NATIONAL CABLE OWNERSHIP RULES

To control the power of cable companies, the FCC has placed ownership restrictions on any multiple system operator (MSO). An MSO is a large company, such as Time Warner Cable, which operates cable systems across the country. Until October 1999, the FCC said that no MSO could serve more than 30% of all *cable* subscribers nationwide.

Then the rules changed. Starting in October 1999, the FCC said that no MSO would be allowed to serve more than 30% of all *multichannel video program distributors* (MVPDs) subscribers nationwide. MVPDs include cable systems *and* satellite TV services such as DBS. According to the FCC, roughly 22 million homes in 2001 received their TV programming through a DBS system, such as the Dish Network. Nearly 73 million were hooked up to cable that same year.

This new definition created problems for companies such as AT&T. AT&T was in the process of merging with Media One, but the merger would have given AT&T more than 30% of MVPD subscribers nationwide. AT&T and Time Warner called the 30% cap unconstitutional and took the FCC to court.

In *Time Warner v. FCC*,¹⁹ a federal appeals court threw out the 30% cable ownership cap, saying the FCC had no justification for that limit. In fact, the court said the FCC’s 30% limit appeared to have been “plucked . . . out of thin air.” The court suggested that a 60% cap might be more reasonable and remanded the issue to the FCC for further consideration. So, for now, the 30% cap is gone, and the FCC is considering a 45% cap. It will be up to that same appeals court to determine whether the FCC can justify a new cable ownership cap.

¹⁸Adelstein, J. S. (2003, June 2). *Statement before the Senate Committee on Commerce, Science and Transportation hearing on FCC oversight*. p. 2. Retrieved June 10, 2003, from http://www.fcc.gov/Daily_Releases/Daily_Business/2003/db0602/DOC-235047A8.pdf

¹⁹240 F.3d 1126 (D.C. Cir. 2001)

ANTITRUST LAWS AND MEDIA MERGERS

Station owners must not only be aware of FCC rules but of possible violations of antitrust laws. The federal government, through the Department of Justice (DOJ), enforces antitrust laws, which prohibit unfair competition. This is also spelled out in Section 314 of the Communications Act of 1934, which prohibits broadcasters from engaging in any practice that “lessens competition or restrains commerce.”²⁰

The 1980s and 1990s saw a flurry of merger activity in the media, and some antitrust concerns arose as more and more media outlets were being owned by fewer and fewer companies. Merger activity was especially noticeable among the major TV networks. The once-dominant Big Three networks (ABC, CBS, and NBC) had seen their power and audience shares erode as cable and home video became more popular. The FCC was also becoming less opposed to mergers involving major broadcast companies. In 1986, the Big Three all changed hands. General Electric purchased RCA and, as a result, NBC. Capital Cities purchased ABC. Lawrence Tisch and his Loew’s Inc. investment firm took control of CBS.

The ownership landscape for major TV networks continued to change dramatically in the 1990s. In 1995, Disney purchased Cap Cities (ABC), as well as cable sports giant ESPN. Also that year, Time Warner acquired Turner Broadcasting. Westinghouse bought CBS in 1996. Later that year, Westinghouse (CBS) merged with Infinity Broadcasting, which resulted in the creation of the second-largest radio group in the United States. In 1999, a merger with Viacom gave Westinghouse an additional 160 radio stations, 35 TV stations, several production companies, Blockbuster Video, MTV, Nickelodeon, Paramount Pictures, and the fledgling UPN network. As noted earlier in the chapter, one of the most controversial issues in this massive merger was that it gave the company control of two networks, CBS and UPN, a violation of network ownership rules. However, the FCC amended the rules in 2000 to allow dual network ownership as long as *both* networks are not among the Big Four.

The DOJ was also keeping its eye on the flurry of radio mergers after the passage of the Telecomm Act of 1996. That year, American Radio Systems proposed a \$655 million dollar merger with EZ Communications. However, the DOJ only approved the merger after American Radio agreed to divest itself of two radio stations in Charlotte and Sacramento. For example, in Charlotte, the DOJ said the original merger would have given American Radio control of 55% of Charlotte’s radio revenues, which the DOJ said was too much. By selling off a top-rated station, American Radio then owned seven stations and roughly 40% of Charlotte radio revenues. American radio had to amend a similar situation in Sacramento before the merger was approved.

Also in 1996, the DOJ put the brakes on a merger by Jacor Communications because it would have given the company control of 53% of Cincinnati radio ad revenues. Jacor was forced to sell a top-rated station before the DOJ finally approved the merger.

Australian media mogul Rupert Murdoch tested the limits of media ownership in the 1980s when he began purchasing American media companies. In 1985, Murdoch and his Australian-based company News Corp. purchased Twentieth Century Fox and bought seven TV stations from Metromedia for \$2 billion. In 1986, Murdoch used those stations to launch

²⁰Communication Act of 1934, 47 U.S.C. § 314 (1934)

the Fox Television Network. Murdoch had become a naturalized U.S. citizen in 1985 to comply with FCC rules prohibiting a foreigner from owning broadcast stations. At the same time, a foreign company was allowed to have up to a 25% interest in an American broadcast station.

FAQ

If Murdoch's company News Corp. was based in Australia, didn't this create other foreign ownership problems?

It did. In 1994, Murdoch was eager to turn Fox TV into a competitive fourth TV network, and he paid \$500 million to New World Communications for 12 TV stations which then abandoned their affiliations with CBS, NBC, and ABC. In 1995, News Corp. announced another deal that would have led to more Big Three affiliates switching to Fox. Four of those stations were NBC affiliates, and NBC filed a complaint with the FCC, claiming that Murdoch and News Corp. may have been violating the commission's 25% limit on foreign ownership of broadcast stations.

After an investigation by the FCC's Mass Media Bureau, the commission ruled that News Corp. had indeed exceeded the 25% limit because, although Murdoch had 76% of the voting shares, Australian-based News Corp. had true control over Fox because it supplied 99% of the funds to purchase the stations. Still, the FCC was eager to see a fourth TV network emerge, feeling that it would benefit the public interest. As a result, the FCC urged Murdoch to seek a waiver of the 25% limit, and it was granted.

LOW-POWER FM STATIONS

As mentioned, the new radio ownership rules in the Telecomm Act of 1996 led to rapid consolidation in the radio industry in the late 1990s. Large companies began buying radio stations across the country, and the number of radio stations with local ownership was shrinking. Critics said radio stations were no longer focused on serving their local communities.

In response, the FCC decided to encourage the development of low-power radio stations that would be more focused on serving local communities. These stations would be called low-power FM (LPFM). In January 2000, the FCC approved this new class of radio stations, "designed to serve very localized communities or underrepresented groups within a community."²¹ For LPFM guidelines, see Figure 5.1.

FAQ

You say that LPFM stations aren't allowed to act as "translators." What is a translator?

²¹Federal Communications Commission. (2000, January 20). *FCC approves new non-commercial low power FM radio service*. MM Docket No. 99-25.

1. Parties may apply for one of two classes of LPFM:
 - a. LP10: power from 1-10 watts (service radius of 1-2 miles).
 - b. LP100: power from 50-100 watts (service radius of about 3.5 miles).
2. Parties eligible for LPFM licenses
 - a. Noncommercial educational institutions (government or private)
 - b. Nonprofit groups with educational purposes
 - c. Nonprofit or government groups providing local public safety or transportation services
3. Dial location
 - a. LPFM stations are allowed to be located anywhere on the FM dial, provided that the LPFM signal does not interfere with any existing radio station's signal.
4. License term
 - a. LPFM stations will be licensed for 8-year, renewable terms.
5. Ownership rules
 - a. During the first 2 years, a party may operate only one LPFM station nationwide. After 2 years, a party may own up to five LPFMs. After 3 years, a party may own up to ten stations nationwide.
 - b. No existing broadcaster or other media entity may own an LPFM or provide programming services to an LPFM.
6. LPFM broadcast programming rules
 - a. LPFM stations must broadcast at least 36 hours per week.
 - b. LPFM stations must air a station identification every hour. Call letters for the stations will consist of four letters followed by the letters LP.
 - c. LPFM stations are required to follow certain FCC rules, including sponsorship identification, political programming, and prohibitions on indecent and obscene programming. They must take part in the national Emergency Alert System.
 - d. LPFM stations are *not* required to keep a public file, file ownership reports, or adhere to the Main Studio Rule.
 - e. LPFM stations may not operate as translators.
7. If there are competing applications for an LPFM license within a community, the following factors work in favor of an applicant:
 - a. Pledging to operate at least 12 hours daily
 - b. Pledging to air at least 8 hours of local programming daily
 - c. Verifying an established community presence for at least 2 years before the application
 - d. Having physical headquarters within 10 miles of the station the applicant plans to operate or having 75% of the station's board members living within 10 miles of the station.
8. Pirate broadcasters (someone who is broadcasting illegally, without an FCC license) are allowed to apply for LPFM licenses if they
 - a. voluntarily stopped broadcasting illegally as of February 26, 1999
 - b. stopped illegal broadcasts within 24 hours of an FCC order to do so

Figure 5.1 Low-Power FM Radio Guidelines

A translator is basically a radio station “repeater.” Example: Jonesville is a small community with no radio stations, and it is surrounded by mountains. As a result, people there cannot not receive a popular FM station from Smithtown, 20 miles away. So Jonesville places a translator on top of one of the mountains. The translator is able to pick up the signal from the Smithtown FM station. The translator then rebroadcasts that Smithtown FM station signal clearly to the people in Jonesville. It is like a cable system for radio, without the cables.

The FCC does not want LPFMs operating as translators because the main goal of translator stations is to bring in a distant signal. LPFM stations are supposed to be local.

Competing Applications. The FCC says diversity and local ownership are encouraged when it gives preference to applicants who are physically headquartered within 10 miles of the station they plan to operate or who have 75% of their board members living within 10 miles of the station.

Pirate Broadcasting. According to the LPFM Guidelines, any person who continued pirate broadcasting after being ordered by the FCC to desist was ineligible for an LPFM license. In 2000, Congress made this provision a law when it passed the Radio Broadcasting Preservation Act.

In 2002, though, a federal appeals court found the provision unconstitutional. The court said the FCC could not deny an LPFM license to a person just because that person had engaged in pirate broadcasting. The court said the FCC could take a history of pirate broadcasting into account when considering LPFM licenses, but the commission could not give blanket denials to former “pirates.”

As of June 2003, the FCC reported that 195 LPFM stations were on the air, and more than 2400 applications had been received. The largest numbers of LPFM applicants were from religious organizations. Programming on LPFM stations tends to include music, news, weather, information, local sports coverage, and community events. The stations are usually run by volunteers. It has to be stressed that LPFM stations *must* operate as non-commercial entities. In 2004, the FCC sent a letter of admonishment to WLFK-LP in Eau Claire, WI, for broadcasting underwriting announcements that sounded too much like advertisements.²²

Opposition to LPFM

The National Association of Broadcasters and some large broadcast groups, such as National Public Radio, did not feel that the FCC had done enough to make sure that new LPFM stations would not interfere with the signals of existing broadcasters. The NAB was successful in lobbying Congress to pass the Third Adjacent Channel Requirement of the Radio Preservation Act in 2000. This act requires that LPFM stations not be located closer than three “channels” to an existing high-power broadcast station. On FM, a channel represents 0.2 MHz. So, for example, if a high-power station is broadcasting at 102.7 FM, an LPFM could only get as close as 102.1 FM or 103.3 FM.

²²FCC cautions LPFM about airing ads. (2004, November 9). *Radio World Online*. Retrieved November 17, 2004, from <http://rwonline.com/dailynews/one.php?id=6168>

In 2004, the FCC urged that the restrictions in the 2000 act be dropped, citing a study that showed LPFMs had posed “no significant risk” to existing broadcasters. The FCC also argued that the “three channel” rule was keeping LPFMs off the air in some markets. The NAB responded by calling the FCC study “deeply flawed” and argued that the FCC drop its opposition to the 2000 act.

LOW-POWER TELEVISION (LPTV)

LPTV has been in existence since 1982. LPTV was devised by the FCC for reasons very similar to those for LPFM development. The FCC wanted to bring TV stations to smaller communities or certain sections of large urban areas. Two thirds of LPTV stations are in rural areas. The FCC says LPTV is designed to provide programming “tailored to the interests and self-expression of viewers.”²³ LPTV stations are restricted to an effective radiated power of 150 kilowatts for UHF and 3 kilowatts for VHF. Depending on several factors, including antenna height and surrounding terrain, an LPTV signal can reach more than 20 miles. LPTV stations must not interfere with the signals of existing or future full-service TV stations, but they must accept interference from full-service stations.

FAQ

Does the FCC have fewer regulations for LPTV, just as it does for LPFM?

Yes. As with LPFM, the FCC places fewer regulations on LPTV. This makes it easier for people to start and maintain the stations. LPTV stations are not required to maintain public files, and there are no minimum hours of operation required. LPTV stations, unlike LPFM stations, may accept advertising or offer subscription programming to viewers. LPTV operators may create their own programming or purchase it from other sources. There are no limits on how many LPTV stations may be owned by one entity. National commercial networks and broadcast licensees may own and operate LPTV stations; LPTV stations are not included in the FCC cross-ownership rules.

As of 2001, there were more than 2000 LPTV stations, 250 of which made up a statewide network in Alaska. Most LPTV stations are operated by religious organizations, colleges, high schools, local governments, and private citizens. Persons may apply for LPTV licenses from the FCC during designated 2-month filing windows each year.

There are also 5000 TV translators in the United States. Most of these translators are in western states, rebroadcasting the signals of full-service stations.

LOCAL MARKETING AGREEMENTS (LMA)

An example of an LMA is a case in which one TV station assists a second TV station (or brokered station) in the same market with its day-to-day operations, but each TV station

²³Federal Communications Commission. (2001, November). *FCC fact sheet: Low power television*. Retrieved August 7, 2002, from <http://www.fcc.gov/mb/video/files/LPTVFactSheet.html>

is owned by a different company. In 2000, the FCC said that “the majority of LMAs will become permissible under the new TV Duopoly rule or related waiver policies.” The amount of time brokered must be more than 15% of the brokered station’s weekly broadcast hours.

FCC chairman Michael Powell has commented numerous times that he believes LMAs are a dying breed. He says new ownership rules will eventually allow most LMAs to be owned outright by another station.

SUMMARY

As seen in this chapter, the trend is toward fewer ownership rules for the media.

Deregulation in 1996 led to a consolidation of the radio industry, the most prominent example being Clear Channel, which now owns roughly 1250 radio stations in America. Deregulation opponents say corporate-owned radio stations do not do as good of a job serving the public interest as do locally owned stations. The big media companies will argue, though, that it is just the free marketplace at work.

Critics will continue to argue that the newer rules are leading to fewer and fewer media companies gaining more and more power. In 2003, the FCC announced new ownership rules for TV, as well as cross-media rules affecting TV, radio, and newspaper ownership, but a federal court in 2004 struck down those new limits. Opponents of such changes argue that the public is being deprived of the opportunity to get news and information from a diversity of sources. The FCC, though, says the public has many other sources of information nowadays, with such options as cable, satellite, and the Internet.

One response to the ownership changes in the Telecomm Act of 1996 was the introduction of LPFM radio. These low-powered FM stations are designed to serve their immediate communities and bring back more local ownership in response to national companies buying up local broadcast stations.